

Private security functions. Activities engaged in by a contractor under a covered contract as follows:

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party.¹

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties. For the DoD, DoDI Instruction 3020.41, “Contractor Personnel Authorized to Accompany the U.S. Armed Forces,”² prescribes policies related to personnel allowed to carry weapons for self defense.

PSC. During contingency operations “PSC” means a company employed by the DoD performing private security functions under a covered contract. In a designated area of combat operations, the term “PSC” expands to include all companies employed by U.S.G. agencies performing private security functions under a covered contract.

PSC personnel. Any individual performing private security functions under a covered contract.

§ 159.4 Policy.

(a) Consistent with the requirements of paragraph (a)(2) of section 862 of Public Law 110–181, the selection, training, equipping, and conduct of PSC personnel including the establishment of appropriate processes shall be coordinated between the DoD and the Department of State.

(b) Geographic Combatant Commanders will provide tailored PSC guidance and procedures for the operational environment in their Area of Responsibility (AOR) in accordance with this part, the Federal Acquisition Regulation (FAR)³ and the Defense

Federal Acquisition Regulation Supplement (DFARS).⁴

(c) In a designated area of combat operations, the relevant Chief of Mission will be responsible for developing and issuing implementing instructions for non-DoD PSCs and their personnel consistent with the standards set forth by the geographic Combatant Commander in accordance with paragraph (b) of this section. The Chief of Mission has the option to instruct non DoD PSCs and their personnel to follow the guidance and procedures developed by the Geographic Combatant Commander and/or Subordinate Commander.

(d) The requirements of this part shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

§ 159.5 Responsibilities.

(a) The Assistant Deputy Under Secretary of Defense for Program Support, under the authority, direction, and control of the Deputy Under Secretary of Defense for Logistics and Materiel Readiness, shall monitor the registering, processing, and accounting of PSC personnel in an area of contingency operations.

(b) The Director, Defense Procurement and Acquisition Policy, under the authority, direction, and control of the Deputy Under Secretary of Defense for Acquisition and Technology (DUSD(AT)), shall ensure that the DFARS and (in consultation with the other members of the FAR Council) the FAR provide appropriate guidance and contract clauses consistent with this part and paragraph (b) of section 862 of Public Law 110–181.

(c) The Director, Defense Business Transformation Agency, under the authority, direction, and control of the Deputy Chief Management Officer of the Department of Defense, through the DUSD(AT), shall ensure that information systems effectively support the accountability and visibility of contracts, contractors, and specified equipment associated with private security functions.

¹Contractors performing private security functions are not authorized to perform inherently governmental functions. In this regard, they are limited to a defensive response to hostile acts or demonstrated hostile intent.

²Available at <http://www.dtic.mil/whs/directives/corres/pdf/302041p.pdf>.

³Published in Title 48 of the Code of Federal Regulations.

⁴Published in Title 48 of the Code of Federal Regulations.